

REMARKS

Status of the Present Application

In the Office Action of October 27, 2003, claims 2, 4-10, 12-29 and 31-34 were withdrawn from further consideration. The Office Action rejected claims 35-38 under 35 U.S.C. § 102(b). Claims 35 and 36 have been amended and claim 39 has been added to further clarify the invention; no new matter has been added. Accordingly, claims 35-39 are currently pending.

Claim Rejections - 35 U.S.C. § 102

Claims 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by both Zimmerman (U.S. Patent No. 5,356,534) and Menold (4,265,754). For the reasons set forth below, Applicant submits that currently pending claims 35-38 are neither anticipated nor suggested by the Zimmerman or Menold references cited in the Office Action.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or implicitly. Any feature not directly taught must be inherently present. See MPEP § 706.02(a); Verdegaal Bros. v. Union Oil Co., 814 F.2d 628, 631 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989); see also MPEP § 2131.

Claim 35 calls for, among other features, "the magnet apparatus comprises a plurality of magnets disposed in a planar relationship." As can be seen in Figures 2 and 5, the magnets 230, 235-50, 331-33, 341-43, are located on the same plane.

Neither Zimmerman nor Menold teach, disclose or suggest a "magnet apparatus contain[ing] a plurality of magnets disposed in a planar relationship."

Zimmerman declares at column 7, lines 28-43:

Between the first and second permanent magnets 14, 16 is located the first ferromagnetic pole member 20 as best shown in FIG. 6. The outward end 20a, of this member is located below the outward ends 14a, 16a of the first and second permanent magnets respectfully

Between the first and third permanent magnets 14, 18 is located the second ferromagnetic pole member 22 as also shown in FIG. 6. The outward end 22a of this member is located below the outward ends 14a, 18a of the first and third permanent magnets respectfully

At column 10, lines 1-17, Zimmerman also proclaims:

Between the first and second permanent magnets 15, 17 is located the first circular ferromagnetic pole member 23 as shown in FIG. 9[.] The outward end 23a, of this member is located below the outward ends 15a, 17a of the first and second circular permanent magnets respectfully

Between the first and third permanent magnets 15[,] 19 is located the second ferromagnetic pole member 25 as also shown in FIG. 9. The outward end 25a of this member is located below the outward ends 15a, 19a of the first and third circular permanent magnets respectfully

(emphasis added). Clearly, these ferromagnetic pole members are not "disposed in a planar relationship" with the first and second permanent magnets.

Menold states at column 3, lines 30-37:

Each of the pole members 24 has an extension 26 projecting downwardly from the laminated region of the magnetic structure 18, with a partial cylindrical recess 28 positioned about a common axis which is perpendicular to the places of the laminations. The recesses 28 are therefore able to engage the conventional water pipe 12 such that the outer surface 30 of the pipe is received snugly therein.

(emphasis added). As depicted in Figure 4 of Menold, extension 26 of the pole members 24 extends below the bottom-most portion of permanent magnets 20. Again, the pole members are not "disposed in a planar relationship" with the permanent magnets.

Accordingly, the Zimmerman and Menold references do not disclose or suggest all of the features of amended claim 35 and the claims dependent thereon. As such, the grounds for rejection are unsupported by the cited art and Applicant respectfully requests withdrawal of this rejection.

Newly Added Claim 39

Claim 39 calls for, among other features, "the at least one magnetic apparatus further comprises a housing having at least two walls, wherein at least one of the two walls abuts the pipe, and the magnets are disposed within the housing." Support for this claim is found on page 5, lines 20-page 6, line 5. Thus, no new matter has been added and claim 39 is allowable for at least the same reasons as claims 35-38.

CONCLUSION

It is respectfully submitted that all claims currently pending in the application are in condition for allowance in their current form and that the application proceed to issuance. Reconsideration and withdrawal of the pending rejections are respectfully requested. Early and favorable notice to this effect is earnestly solicited.

If the Examiner does not consider the pending claims allowable, the undersigned respectfully requests an interview with the Examiner and her supervisor to discuss the merits of the case.

Respectfully submitted,

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